

**FLATHEAD COUNTY PLANNING BOARD SPECIAL MEETING
MINUTES OF THE MEETING
FEBRUARY 14, 2007**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Randy Toavs, Gordon Cross, Barry Conger, Kim Fleming, Frank DeKort, and Kathy Robertson. Gene Dziza, Don Hines, and Michael Mower had excused absences. Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 55 people in the audience.

**PUBLIC
REVIEW**

Gordon Cross reviewed the public hearing process for the public.

**APPROVAL OF
MINUTES**

Robertson made a motion seconded by Frank DeKort to approve the December 20, 2006 meeting minutes as amended.

The motion was carried by quorum.

Robertson made a motion seconded by Frank DeKort to approve the January 10, 2007 meeting minutes as amended.

The motion was carried by quorum.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**PRELIMINARY
PLAT/
JUNIPER
BAY LANDING
(FPP 06-64)**

Hines stepped down for this application due to a conflict of interest.

A request by Juniper Bay Investment Group and Pisk Development LLC for Preliminary Plat approval of Juniper Bay Landing, a twenty-four (24) unit condominium development with four (4) separate buildings containing six (6) units in each building, on approximately six (6) acres. Lots in the subdivision are proposed to have neighborhood water and public sewer systems. The property is located east of Highway 93.

STAFF

Kirsten Holland reviewed Staff Report FPP 06-64 for the Board.

REPORT

BOARD QUESTIONS

Fleming asked for a brief synopsis of the argument over easements.

Holland said it depends on the person; everyone's situation is different. A lot of bad things went on with the site, from the previous owners, so people are very hesitant to sign new easements. Staff's main concern is for everybody to be satisfied and have a way to get to and from their homes.

Fleming said from what she read, the easement is not going to be right on that spot.

Holland said she asked Jonathan about the easements and he indicated it has to be worked out before final plat.

Fleming asked if this development could possibly get rid of the problems from the previous owner.

Holland said the previous owner physically blocked access to and from the homes. She said the existing road doesn't meet the current County standards. The developer will have to move it and there will be an advantage for everybody.

Fleming asked about the papers saying the neighbors can't live within 35 feet of the easement.

Holland said they have been told verbally they can't live within 35 feet. She said the developers told her directly that all the easements will be granted.

Toavs asked the density of Greg Bain's units.

Holland said those units were constructed as apartments and don't have DEQ approval; the area is very dense.

Fleming asked if that was the property that was dug through the septic field.

Holland said yes it is. She stated some of public comment letters were from owners of existing easements. She stated any new development or applications have to conform to the R2 zone. She said this application and one minor subdivision north of this

area are being reviewed with the unzoned status.

Cross asked if the red dotted line was the existing road way.

Holland said yes but she didn't scale it out on the map.

Cross asked about the existing house.

Holland discussed where the existing house was and said they are now part of the development.

Cross asked if there was any communication with the Fire Department.

Holland said no, also because the property is unzoned it would require no setbacks.

Cross asked if the garages were part of the park land.

Holland said no.

Cross asked if the garages would be included if they were attached.

Holland said they would have included them if they were attached.

Robertson asked if the applicants would calculate the square footage including the garage.

Holland didn't know if she had the square footage on the garages.

Robertson asked if the 10-foot setback requirement was from the physical building or from the extension.

Holland said it was from the roofline.

Holland said if the garages added it would be .0152 acres of parkland so that would equal .21 acres total.

Robertson said the current subdivision regulations state that the distances are measured from the roofline or the farthest projecting point of the building.

Holland thanked Robertson, and she had overlooked that so the setback would probably be 7 to 8 feet.

Toavs asked how the project would get reviewed if it failed today and came back again. He asked if it would then be reviewed as zoned then.

Holland said she asked Jonathan Smith, and he said if the new application that is submitted has substantially the same design, it would not have to conform to the R2 zone. She said if the application was dramatically different then it would go by R2 zoning.

APPLICANT

Todd Jochim, of Juniper Bay Investment Group, introduced the Board to the owners of the property and the technical assistance. He discussed how they arrived at this particular project and density and said they first started thinking about doing this project to raise money for charity. He said they decided to find some property and develop it. He stated they found a piece of property on Juniper Bay and it. They talked to the Pisk's about helping them create a larger project that would be more conducive to condominiums. Jochim said they contacted all the people they could to get to help fund the project and they were originally planning 69 condos. He said the developers held a meeting and people were upset about the density of the project, so they dropped it down to 30 condos. Shortly after they started the project he bumped into Roger Sullivan who was heading up the 93 zoning. He said they compared their project to the Landing at Somers Bay project and came up with their density of 24 units. He discussed their vision and how they would sink the buildings into the ground so they would not visually impair the neighbors. He told the neighbors they would not take legal action or protest interim zoning if they could come to an agreement for their project. He said Bob Frasier asked for preliminary drawings to take to neighbors and thought they had agreement with neighbors, so they got some more detailed drawings done. He invited the neighbors to come to a pre-application meeting and thought the meeting was pretty successful, so they got the application done and got sufficiency. He said the setback is 100 feet from the water and pointed on the map where the setbacks and trees are on the site. He said the 10 foot setback was in place because of the neighbor's request. He said that people will only see single-level structures when driving by because the buildings

and garages would be sunk into the ground. Jochim discussed how the views will not change much. He said they plan on putting in quite a bit of foliage and they are going to put vegetation on the property to make it a more beautiful than it is now. He showed the Board where the fire hydrants were going to be located.

Ron Moore discussed the storm water runoff for the site. He said the land has been logged and now sits on a 10-15 percent slope. What is proposed will be an improvement to mitigate the runoff that comes down; and it will be a gentler slope from than it is now. He said there will be 100 percent retention from the hard surface. He stated that just being in a preliminary phase it is hard to give numbers of what exactly is going to happen. He discussed the large tank that will allow the water to filter into sand and then re-circulate the water back into the vegetation.

Todd Jochim said the DEQ would have to make sure the lake is not getting contaminated. He discussed the situation with the easements and the problems that arose with them. He told the neighbors they were going to give them their easements back, but they had some problems getting this done because some of the group wanted to require a road maintenance agreement. He just found out last week that there was paperwork ready to go and only a couple of issues with it. He said they recorded a 30 foot easement today. He discussed the storm water drain off and how they will eliminate that problem. They will put in signs to mitigate the problem of emergency responders not being able to find the houses. They are thinking about putting in a post office pick up box in the area. He said they have more than enough water to support their development and if some people wanted to hook into their system instead of drinking lake water it would be ok. He discussed the dust issue and paving the dirt road. Right now they have the sewer hooked up to the Stuff's house, with the exception of Greg Pisk's property. He said it will be more environmentally favorable to the lake to have the septic systems installed. There has been some concern about how this is going to affect property values, but he talked to several realtors who said it could bring property values up. He said the buildings would never be higher than 35 feet.

Robertson asked what the over hang on the roof was.

Jochim said he doesn't think the over hang would be a big issue

and it might be 10 feet to the side of the building, but about 25 feet at the back of the building.

Robertson asked if they could still put in the gutters.

Jochim said yes.

Toavs asked about half of the building being underground and about the exit from the building.

Jochim said when you look at the drawing it shows one set of stairs to get out of the next level and there will be patio area that comes out from lower level.

Toavs asked if the entire building will be day lighted in the basement.

Jochim said the landscape area will still be at the sunken level.

Cross asked about the finished floor elevation as it relates to the lake.

Jochim said it is several feet above since it is a 100 foot setback so it will be at least ten feet.

Toavs asked about basement slab.

Jochim said the basement slab would be around 10 feet.

DeKort asked what high water line at full pool would be.

Jochim pointed on the map where full pool was, and the building would be 80 to 100 feet back at all locations.

DeKort asked what the plan suggested for buildings.

Jochim said they are not taking the trees out.

Cross asked what made them initially think the 70 unit plan would get approved.

Jochim he watched what else was going on by the lake, and they

wanted the same density as what was already there. He showed the Board the original drawing of 69 condos.

Robertson said both the landmark and waterside areas in Somers and Lakeside have historically been used as commercial areas, but Juniper Bay has always been residential. She said there are some differences from the Landing at Somers bay.

Jochim discussed safety, health, and the welfare in regards to the project. He said people would probably rather see single-family homes on the lots, but there would be twice the amount of roof area if they did 24 duplexes and there would be more storm water runoff. He said single family homes generate 10 trips a day and that would add up to a lot. When you look at the condo proposal, they are part-time homes for recreational use that would only be 3.16 trips per day. Jochim said there would be less traffic with the condo design than with single family homes and developing single family homes would decrease people's property values. The negative factor of single family homes was discussed at length.

Toavs asked if the garages are going to be sold with the units.

Jochim said they would be sold with the units.

Cross asked if they were all 3 bedroom and 2 1/2 bath.

Jochim said he didn't know how that was going to work out. He said the basement might be unfinished so the buyer could do what they wanted.

AGENCIES

None present.

PUBLIC COMMENT

Joe Orr, 5655 Hwy 93 South, said he didn't come to speak for or against the project, but wanted to comment on something Jochim said. He wanted to make it very clear they were liaisons to the neighborhood, not consultants. He said if that impression was given it was a mistake.

Chris Custer, 257 North Juniper Bay Rd., read a letter from Mrs. OstaBowen. He then expressed his extreme displeasure about the project and said it stands for everything the neighborhood doesn't. He spoke about how the neighbors are caring, friendly, and honest people. He said it is a neighborhood where you get to

know your neighbor's dogs and participate in Donuts for Dads. He said the character of Juniper Bay Road is so quite it is designated as part of the bike path. He stated that the area has already seen what happens when development starts. He discussed how a well was drilled through a septic drain field and it took four months to fix the County road. He said there are two projects that illustrate how development adversely affected the character of a neighborhood. He said the current proposal is more of the same; over dense, poorly planned, and profit-driven development.

Eloise Backer, 575 North Juniper Bay Rd, said she grew up in the house her and her husband own and it breaks her heart to see the bay ruined by high density development. There has never been this kind of intrusion in such a peaceful neighborhood. She said if this project is approved no one will be safe in their quite neighborhood. She discussed how the development does not conform to the Growth Policy or the interim zoning. She said the neighborhood is not a vacation getaway and many people have been in their homes for decades. She asked about the neighbor's property rights, and said the homeowners have the right to a quite enjoyment of their property.

Jean Hurtz said her greatest concern is maintaining water quality. She said in October the Daily Interlake ran a three day series on Flathead Lake water quality. She read some paragraphs from the newspaper article, and asked the Board to think about what this development would do to the water before they made their decision.

Joyce Grieve, 685 North Juniper Bay Rd., said she was very emotional about this development, and understands the developers have a big investment in the project. She stated the charitable aspect was a big surprise to her and wondered where the charity would go. She wanted the Board to remember the neighbor's properties mean a lot to them and the day will come when she will have to sell her property and they can't afford a loss on the value or desirability. She stated the development will have huge impact for the quality of life on Juniper Bay Road and urged the Board to deny the application.

Dan Bangeman, 543 North Juniper Bay Road, wanted to give some history of his property. He passed out his title insurance report and discussed it with the Board. There was no mention of

easements or a fish hatchery. He said there was no mention of a water supply storage tank in the environmental assessment. He discussed the excavation of the property and said they would have to be 12 feet away when they excavated it. He said the equipment won't be able to work within 10 feet of property line and asked the Board to deny the application as submitted.

Pamela Ryan, 507 North Juniper Bay Road, said she has a legal easement. She said she is a full time resident and has lived in the area for 25 years. She stated she is the only one who has never had a problem getting out of there in the winter, but the plan is to get rid of her access road causing undo hardship to herself. She is concerned about emergency vehicle transportation. She does not oppose this development, but is opposed to fixing her access road when it doesn't need fixed.

Earl Bach, 334 North Juniper Bay Road, agreed with all the comments made by his neighbors. He said people need to realize that a clean supply of drinking water is necessary to maintain good health and Somers Bay is some of the people's only water supply. He said there are new threats to the water, called condos, that allow density so high 100 people can live in the area where a single family lived in a few years ago. He stated that Somers Bay is the most heavily used water playground on the lake and the yacht club is very active. He said it serves more boaters than all the other boat ramps on the lake combined. He said how the new swimming area is very popular and it is a good site for launching kayaks. He said Mackinaw restaurant attracts boaters from all over the lake and more boats use Somers Bay than the rest of the lake put together. He stated that the developers are just looking to make a quick buck.

Dennis McCarthy, 551 North Juniper Bay Road, said he wanted to paint a picture of the size of the proposed buildings from the lake. He said the informal analysis is 110 feet across and 35 feet high. He handed out photos and wanted the Board to picture four Earl Bennett Buildings lined up; that would be what the development would look like from the lake. He stated the recently remodeled Red Lion is the same width and height as the proposed structures. He doesn't think this development is what the citizens want and the condos don't fit with the character of the neighborhood. He said people love Flathead Lake because it doesn't have large developments on it.

Allison McCarthy, 551 North Juniper Bay Landing, said she was

at the preapplication meeting. She understands the property will be developed, and she isn't opposed to development but she thinks they could develop it better. She said she agrees that Juniper Bay is close in density to the Landing at Somers Bay but that's where the similarities end. She discussed how the Landing at Somers Bay was changed to fit the character of the neighborhood, and the developers worked with the neighbors. She asked the Board to look at Juniper Bay and said the developers took some of the neighbors input but not enough. She discussed how the Landing at Somers Bay scaled their project and did what they could do to make everyone happy. She wants to see the Juniper Bay project remodeled to fit the neighborhood better.

Howard Ruby, Spring creek Road, said his family has been drinking well water from Flathead Lake for a long time, and a month ago they got the water tested. He handed out letter, and discussed how big of an impact Juniper Bay will have on the water. He highly recommended the project be denied.

Jennifer Roadgan, 2090 Black tail Road, said Juniper Bay road has a magical quality to it. She said it is like stepping back in time and the impact of condos to the area land, water, and wildlife will be significant. She stated condos should be the last option; condos would not fit into the beautiful, magical neighborhood, and anyone with a heart or soul could recognize that.

Karen Bach, 334 North Juniper Bay Road, said she doesn't want to have such high density in the area. She appreciates the fact the owners have scaled their project, but she doesn't the neighbors fighting the density is unreasonable. She discussed how interim zoning allows for 2 units per acre and they are fighting double the current zoning. She finds the developers unreasonable because they are not doing what is acceptable and a precedent would be set if the project is accepted. She said she is not against development, but thinks the project should be sent back to lower the density.

Fran Ruby, said she has lived in the neighborhood since 1920. She stated she has wonderful neighbors and they do lots of neighborhood things. She asked the Board to not to let developers ruin their neighborhood. She said the neighbors rights are they don't want developers coming in. She discussed

boat traffic. She thanked the Board for interim zoning, and she passed out a letter to the Board.

Cindy Remington, 639 North Juniper Bay, said her in laws lived in Juniper Bay for 43 years. Her main concern is having 24 more boats in the water they drink. She is also concerned about runoff going into the lake and for the safety of the children. She said she walks to the bus stop and stands with the children every morning and can't imagine what it would be like with more cars on that road. She asked the Board keeps Juniper Bay as single-family housing only.

Virginia Gazewood, of Somers, passed out a letter to the Board. She showed a picture of North Juniper Bay Road and discussed how bad traffic is. She doesn't see fire trucks being able to get into the units.

Kurt Larsen, 100 Hilltop Ave, said he spent a lot of time at Juniper Bay and still uses the lake. He discussed how quickly the valley is changing. He supports the efforts of keeping some quality of life and a little bit of space. He said he doesn't want to see it packed in like sardines.

Don Damel, 33 Hillcrest Drive, said he is one of the 8 investors in the Juniper Bay Project. He has lived in the valley for 31 years and the main reason he joined the investment group was to enjoy Flathead Lake at reasonable cost. He discussed the 24 unit and said it is a combination of what the neighbors wanted. He discussed the meetings they had and after a lengthy discussion they decided the 24 units could be supported by the Planning Board. He said the Planning Staff said 24 units was the maximum they would support. He would appreciate favorable recommendation for the project.

Marsha Reeky, 515 North Juniper Bay Road, said she had been to some of the meetings and was pleased with the cooperation from neighbors and groups. She said any issue they came up with, the developers tried to identify a solution, and one of the things she was very appreciative of was the runoff. She also asked the Board takes the knowledge they have and give an educational solution to the problem. She passed out a very detailed letter of her concerns.

Ann Copeland, 693 North Juniper Bay Road, said she has the

same concerns her neighbors have. She wants to see their neighborhood maintain the quality of a peaceful neighborhood.

Bruce Jellison, 559 North Juniper Bay Road, said he has lived there for 37 years and discussed easements. He thanked the Board and Staff for their effort on the project. He realizes growth is inevitable, but does not want to see their neighborhood of single-family homes overshadowed by condos. He is opposed to the project as planned and believes there is a better design out there. He discussed the character of the neighborhood and said it will be changed by condos. He said condos will reduce safety on roads, reduced safety on Flathead Lake, and there will be health issues from runoffs.

Bob Jellison, 973 Blue Lake Lane, said Juniper Bay is a strong community and maintaining the integrity is very important. He said the issue is units versus homes; that is the bottom line. He discussed how it would look like four Earl Bennett buildings right on the water front. He discussed the significant impact the condos would have and hopes the Board respects what the neighbors have said.

Kenneth Torgerson, 233 North Juniper Bay Road, said he wants to echo the thoughts off his neighbors. He discussed traffic, lake water, density, and safety.

Lisa Hokman, 5600 Hwy 93 South, said she heard the details tonight for the first time and is interested in the comments being made. She doesn't think it needs that many buildings to improve the property and it would be a lot to look at for the residents that live there. She said just because property is zoned R2, it doesn't mean you need to build to that extent. She is not opposed to development.

**STAFF
REBUTTAL
APPLICANT
REBUTTAL**

None.

Cross asked for a comment on the water storage system.

Jochim said it will all be underground or in a building. He said everyone is concerned about traffic and the effects on the lake. He said density should not be an issue at this point and he doesn't understand that. He said if you put 15 single-family homes it will be a wall of homes on the lake and it will look much more dense when it is spread across the property. He discussed

how more landscaping would be present with condos. He said most people are looking at it from the road side, not the lake side, and when someone drives by they are going to see a single level home. He said lake water would be worse off with single family residential homes. He discussed how less people would be using the lake with condos opposed to 15 single family homes. He discussed at length the different concerns that were brought up.

Holland clarified that if the application was submitted as single family residential it would have to go through storm water drainage from the DEQ. She said the Landing proposed 14 units, and Staff would only support 12 units because 12 units met requirements for R2 zoning. She said in order for Juniper Bay to meet the requirements of R2 zoning, they would need 22 units.

**BOARD
DISCUSSION**

None.

MAIN MOTION

Robertson made a motion seconded by Fleming to adopt Staff Report FPP-06-64 with the amended Findings of Fact and recommended **denial** to the Board of County Commissioners.

**BOARD
DISCUSSION**

Robertson said she looked at the Master Plan and the subdivision regulations say the criteria for the variance are not met. She said the proposal does not conform to Master Plan map, which establishes the density of one unit per acre. She discussed the guidelines for water front development, surface water runoff, docks, setbacks, and access to the site. She said the access is extremely dangerous and they can't expand the road as it exists. She feels the interim zoning of R2 is appropriate for that area. She said there is a pending lawsuit that needs to be considered. Boat traffic is another concern, and she doesn't feel the people from the neighborhood are saying they are only going to be happy with single-family residential. She thinks they are just opposed to the density.

Fleming said the applicant had knowledge of the proposed interim zoning yet preceded with proposal that would not conform if the zoning was adopted. She discussed how building mass is important and that a duplex design may work in this location. She said single-family structures will not fit at an allowable density and the fire safety would be compromised by the height and location of the buildings. She stated that there

was no indication if the buildings would be sprinkled and there are issues with the runoff. Fleming said she does not like the perception that “deals” were made with community.

DeKort thought the environmental assessment was incomplete and they are talking about a very sensitive piece of property.

Toavs said Staff did a good job mitigating the impacts. He discussed how the comparisons to the Earl Bennett Building and Red Lion Hotel are not relevant to this project. He asked if the easement issue can be addressed or resolved.

Conger said it is essentially not the job of the Board to tell the developers how to build their developments. He said the proposal doesn’t conform to the rules, and it could have been submitted to conform to the R-2 PUD.

Cross said the PUD would give more details on the project and said the mass of the buildings is disturbing. He said the impact from 240 vehicle trips per day was not addressed in the Staff Report.

**SUBSIDIARY
MOTION
(AMEND
FINDING # 6)**

Fleming made a motion seconded by Robertson to amend Finding # 6 to read; There is no way to enforce design for landscaping as the County lacks landscape design standards.

The motion was carried by quorum.

**SUBSIDIARY
MOTION
(AMEND
FINDING #3)**

Cross made a motion, seconded by Robertson to amend finding # 3 to read; The proposal does not conform to the Master Plan guidelines for waterfront development and rural residential development.

The motion was carried by quorum.

**SUBSIDIARY
MOTION
(AMEND
FINDING # 4)**

Fleming made a motion seconded by Robertson to amend Finding # 4 to read; Access to the site is off of North Juniper Bay Road, which has an arguable and unsubstantiated right of way. The Road Department has indicated that the right of way on Old Highway 93 varies; due to past development of parcels to the property line, there is limited, if any, opportunity for expansion of the roadway. The internal road is located within a 30-foot easement. The proposal requires improvements to the internal road system, which include relocation of a portion of the road,

incorporation of a garage/storage area, and driveway and parking access for 24 residential units.

The motion was carried by quorum.

**SUBSIDIARY
MOTION
(ADD FINDING
9)**

Conger made a motion seconded by Robertson to add Findings of Fact # 9 to state; The application does not adequately address potential traffic safety issues with layout of driveways and parking.

The motion was carried by quorum.

**SUBSIDIARY
MOTION
(ADD FINDING
10)**

Robertson made a motion seconded by Fleming to add Findings of Fact # 10 to state: The parcel is located in a historically single family residential neighborhood and the proposal raises serious concerns about building mass.

The motion was carried by quorum.

**SUBSIDIARY
MOTION
(ADD FINDING
11)**

DeKort made a motion seconded by Fleming to add Findings of Fact # 11 to state: The Environmental Assessment is inadequate in assessment and mitigation of potential impacts to water quality and ecological issues which will be associated with the proposed condominium project.

The motion was carried by quorum.

**SUBSIDIARY
MOTION
(ADD FINDING
12)**

Conger made a motion seconded by Fleming to add Findings of Fact # 12 to state: The application does not adequately address the impact of increased traffic on North Juniper Bay Road.

The motion was carried by quorum.

**SUBSIDIARY
MOTION
(ADD FINDING
13)**

Robertson made a motion seconded by Fleming to add Findings of Fact #13 to state: The concerns expressed in letters received from Montana Fish, Wildlife and Parks and the Flathead Lakers shall be entered into the record as findings of fact.

The motion was carried by quorum.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion was denied unanimously.

MOTION

Robertson made a motion seconded by Conger to incorporate the

requests of adjoining property owner Dan Bangeman as a condition, to read: the application must meet Section 5.4(D) for setbacks, the presentation suggested a community well with backup well and other wells and septs abandoned, but application indicates three wells, and decrease size of the building to meet setback at Bangeman's property line.

The motion was carried by quorum.

MOTION

Conger made a motion seconded by Fleming to express concerns about increased boat traffic, firefighting access, and whether or not Lakeside Water and Sewer District were going to take over the water service.

The motion was carried by quorum.

MOTION

Cross made a motion seconded by Robertson that the variance should be denied and the buildings should be sprinkled.

The motion was carried by quorum.

**OLD
BUSINESS**

None.

**NEW
BUSINESS**

Fleming handed out a form and asked that it be added to next weeks agenda.

Toavs said it would be easier if Staff made no recommendation.

The Board discussed, at length, how to make motions and findings-of-facts and what they wanted to change. The Board requested the County Attorney holds a meeting with them discussing how to make motions and findings-of-facts.

ADJOURNMENT

The meeting was adjourned at approximately 10:45 p.m. on a motion by Cross seconded by Toavs. The next meeting will be held at 6:00 p.m. on February 21, 2007.

Gordon Cross, Vice- Chairman

Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 4/11/07